APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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NIXON & VANDERHYE
1100 NORTH GLEBE ROAD
8TH FLOOR
ARLINGTON VA 22201-4714

EXAMINER
ROBINSON BOYCE, A

ART UNIT	PAPER NUMBER
2163	

DATE MAILED:
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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

	Application No.	Applicant(s)
Office Action Summary	09/043,406	O'Brien
	Examiner	Art Unit	
	Akiba Robinson-Boyce	2163	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ___3___ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *May 21, 2001* .

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-60* is/are pending in the application.

  4a) Of the above, claim(s) *1-43* is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *44-60* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

  a) ☒ All b) ☐ Some* c) ☐ None of:

    1. ☒ Certified copies of the priority documents have been received.

    2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

    3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

  *See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☐ Notice of References Cited (PTO-892)

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

19) ☐ Notice of Informal Patent Application (PTO-152)

20) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2.   Claims 45-49 are rejected under 35 U.S.C. 102(b) as being anticipated by Babayev, et al

(US Patent 5,615,121) .

As per claims 45-47, Babayev, et al discloses:

receiving a service request...(Col. 14, lines 35-40);

identifying component processes...(Col. 5, line 27-Col. 6, line 38);

establishing conditions...(Col. 2, line 64-Col. 3, line 3);

accessing an up-datable data store...(Col. 2, lines 48-56 read with Col. 15, lines 41-56,

where the examiner is interpreting the time interval constraints of Babayev, et al as the conditions

of the present invention);

providing a response to the service request...(Col. 1, lines 7-9, Col. 14, lines 55-57, Col.

3, line 65-Col. 4, line 6);

wherein a service request is processed by accessing one or more of the previously

established...(Col. 2, lines 48-56, Col. 15, lines 31-40, where the examiner is interpreting the time

interval constraints of Babayev, et al as the conditions of the present invention).

wherein one or more of said established conditions has an associated expiry time...(Col. 2,

lines 48-56);

an expired or unidentified condition is detected in the data store...a substitute condition is

established...(Col. 7, lines 15-22 and lines 37-54, [condition is not met]).

The following is inherent with Babayev, et al's system because with current technology such as

the Internet, modern computer environments are known to be distributed in order to

accommodate a vast amount of users:

a distributed processing environment...

As per claim 48, Babayev, et al discloses:

initiating one or more component processes...(Col. 7, lines 55-60).

As per claim 49, Babayev, et al discloses:

provisioning a requested service requires provision of a selected set of component

processes...(Fig.'s 2A-2E);

the negotiating means establishes and stores a set of conditions...(Col. 6, lines 36-44);

a service request is processed...(Col. 2, lines 48-56, Col. 15, lines 31-40, where the

examiner is interpreting the time interval constraints of Babayev, et al as the conditions of the

present invention).

3.   Claims 50, 51, 53, 57, 58, 59, 60 are rejected under 35 U.S.C. 102(b) as being anticipated

by Wrabetz, et al (5442,791).

As per claim 50, Wrabetz, et al discloses:

programmed computer means for negotiating with another entity...(Col. 7, lines 55-58,

Col. 10, lines 49-53);

means for accessing one or more resources...(Col. 9, lines 36-41);

said negotiating means including a data store...(Col. 14, lines 49-54);

means to update said data...on the basis of the past performance...(Col. 26, lines 39-42).

As per claims 51, Wrabetz, et al discloses:

an input connected to a distributed processing environment for receiving a service

request...(Abstract, lines 1-5, Col. 16, lines 22-24);

a response output...(Col. 7, lines 55-63, Col 8, lines 1-7, [execution interface], Col. 16,

lines 58-60);

processing means...(Col. 7, lines 55-63, Col. 14, lines 49-54, Col. 16, lines 26-33);

means to access the data store...(Col. 20, lines 53-56);

wherein said plural systems are connected by a communications network...(Col. 7, lines

54-67, Col. 10, lines 40-53);

wherein each of said systems is associated with a plurality of organizations...(Abstract,

lines 1-5, [network is heterogeneous], Col. 2, lines 16-17, lines 25-27, lines 36-37).

As per claims 53, Wrabetz, et al discloses:

an input connected to a distributed processing environment for receiving a service request...(Abstract, lines 1-5, Col. 16, lines 22-24);

service request processing means...(Col. 7, lines 55-63, Col. 14, lines 49-54);

negotiation means for use in establishing conditions...(Col. 20, lines 53-56, Col. 16, lines 26-29);

an up-datable data store...means to access said up-datable data store...(Col. 20, lines 53-56);

an output for providing a response...(Col. 7, lines 55-63, Col 8, lines 1-7, [execution interface], Col. 16, lines 58-60);

wherein the processing means is adapted to process a service request by accessing one or more of the previously established conditions...(Col. 14, lines 49-53, Col. 16, lines 42-49).

As per claim 57, Wrabetz, et al discloses:

which further comprises initiation means to initiate one or more component processes in provision...(Abstract, lines 26-31).

As per claim 58, Wrabetz, et al discloses:

provisioning a requested service requires provision of a selected set of component processes...(Abstract, lines 36-41);

the negotiation means establishes and stores a set of conditions...(Col. 20, lines 53-56);

the processing means is adapted to process a service request by accessing the stored set of conditions...(Col. 14, lines 49-53, Col. 16, lines 42-49).

As per claim 59, Wrabetz, et al discloses:

using a programmed computer to negotiating with another entity...(Col. 7, lines 55-58,

Col. 10, lines 49-53);

accessing one or more resources...(Col. 9, lines 36-41);

said negotiating means including use of a data store...(Col. 14, lines 49-54);

updating said data on the basis of the past performance...(Col. 26, lines 39-42).

As per claim 60, Wrabetz, et al discloses:

receiving a service request...(Abstract, lines 1-5, Col. 16, lines 22-24);

processing a service request...(Col. 7, lines 55-63, Col. 14, lines 49-54);

accessing an up-datable data store...(Col. 20, lines 53-56);

wherein said plural instances are connected by a communications network...(Col. 7, lines

54-67, Col. 10, lines 40-53);

wherein each of said method instances is associated with a plurality of

organizations...(Abstract, lines 1-5, [network is heterogeneous], Col. 2, lines 16-17, lines 25-27,

lines 36-37).

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 52, 54-56, 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Wrabetz, et al, and further in view of Babayev, et al.

As per claims 52, 44, Wrabetz, et al fails to teach the following, however Babayev, et al

discloses:

wherein the virtual organization exists for a predetermined period...(Col. 16, lines 1-2).

It would have been obvious to one of ordinary skill in the art for the organization to exist for a

predetermined period in order to make sure that service requests are fulfilled in a reasonable

amount of time.

As per claim 54, Wrabetz, et al fails to teach the following, however Babayev, et al

discloses:

wherein one or more of said established conditions has an associated expiry time...(Col. 2,

lines 48-56).

It would have been obvious to one of ordinary skill in the art for one or more of the established

conditions to have an associated expiry time in order to accommodate for each individual service

which must satisfy separate conditions.

As per claim 55, Wrabetz, et al fails to teach the following, however Babayev, et al

discloses:

wherein said processing means is adapted to detect an expired or unidentified condition in the data store...to establish a substitute condition...(Col. 7, lines 15-22 and lines 37-54, [condition is not met]).

It would have been obvious to one of ordinary skill in the art to establish a substitute condition if an expired or unidentified condition is detected in order to guarantee that a service which has been requested meets conditions which were defined for that service.

As per claim 56, Wrabetz, et al discloses:

means to access said data store for storing data related to services....(Col. 20, lines 53-56).

Response to Arguments

6.   Applicant's arguments filed 5/21/01 have been fully considered but they are not persuasive.

The applicant's main argument is that Babayev, et al fails to teach a distributed processing environment, but instead, only discloses a centralized scheduler dealing only with resources. As explained above in the rejection, the examiner feels that distributed processing environments are inherent with Babayev, et al's system because with current technology such as the Internet, modern computer environments are known to be distributed in order to accommodate a vast amount of users. It is commonly known in current computer technology to incorporate distributed processing environments. As disclosed by the Wrabetz, et al reference, heterogeneous (distributed) computer environments provide integrated remote execution systems

in such a way that the application can easily interface with the system and decrease the overhead

associated with initiating and executing remote requests (See Col. 6, lines 34-42). The Babayev,

et al reference is therefore used as prior art in the rejection.

New claims 50-60 are rejected as discussed above in the preceding paragraphs.

Conclusion

7.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office

action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is

reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS

from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the

mailing date of this final action and the advisory action is not mailed until after the end of the

THREE-MONTH shortened statutory period, then the shortened statutory period will expire on

the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

calculated from the mailing date of the advisory action. In no event, however, will the statutory

period for reply expire later than SIX MONTHS from the date of this final action.

An inquiry concerning this communication or earlier communications from the examiner

should be directed to Akiba Robinson-Boyce whose telephone number is (703) 305-1340. The

examiner can normally be reached on Monday-Friday from 6:30AM-3:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,

Tariq Hafiz, can be reached on (703) 305-9643. The fax phone number for the organization where

this application or proceeding is assigned is (703) 305-3988.

An inquiry of a general nature or relating to the status of this application proceeding should

be directed to the receptionist whose telephone number is (703) 305-3900.

Akiba Robinson-Boyce

Patent Examiner

Group Art Unit 2163

August 1, 2001

TARIQ R. HAFIZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100